

**MINUTES**  
**UTAH**  
**PHYSICIAN ASSISTANT**  
**LICENSING BOARD MEETING**

**December 15, 2008**

**Room 475 – 4<sup>th</sup> Floor – 8:30 A.M.**  
**Heber Wells Building**  
**Salt Lake City, UT 84111**

**CONVENED:** 8:34 A.M.

**ADJOURNED:** 10:32 P.M.

**Bureau Manager:**  
**Board Secretary:**  
**Division Compliance Specialist:**

Noel Taxin  
Karen McCall  
Ronda Trujillo

**Board Members Present:**

Jeffrey Paul Clark, MD, Chairperson  
Larry Reimer, MD  
D. Wain Allen, MD  
Gordon L. Day, PA-C  
Jeffrey M. Coursey, PA-C  
David Schmitz, MD

**Board Members Absent:**

Maria K. Skedros

**DOPL Staff Present:**

David Stanley, Division Director  
Wayne Holman, Chief of Investigations

**TOPICS FOR DISCUSSION**

**DECISIONS AND RECOMMENDATIONS**

**ADMINISTRATIVE BUSINESS:**

**MINUTES:**

The minutes from the September 2, 2008 Board meeting were read.

Dr. Schmitz made a motion to approve the minutes as read. Dr. Allen seconded the motion. **The Board vote was unanimous.**

**APPOINTMENTS:**

**8.45 am**

Ronda Trujillo, Compliance Update

Ms. Trujillo informed the Board of the new probationary interview form. She stated that there

are some suggested questions the Board may ask during an interview. Ms. Trujillo stated that if the Board has any suggestions regarding revising the form to let her know. She reminded the Board to print their name and then sign in order for the compliance specialist to know which person interviewed the probationer.

Ms. Trujillo updated the Board regarding the compliance or non-compliance of probationers.

Ms. Trujillo reported that **Alan N. Bybee** is currently non-compliant with his Stipulation and Order. She stated that his Controlled Substance (CS) license is currently suspended and he has quite a list of CS's that have been written. Ms. Trujillo stated that he should not have any CS prescriptions written since June 14, 2008.

**Ms. Taxin reminded the Board that Mr. Bybee was informed at the last meeting that he needed to write a statement regarding why there was a list of CS prescriptions over the last 3 months in the database.**

**Dr. Allen commented that the DOPL database information is not always correct. He stated that maybe someone else is writing the prescriptions and has forged Mr. Bybee's signature. He stated that can't believe Mr. Bybee would say he has not written any prescriptions and then continue to write them.**

**Mr. Day asked if there is a way to check on who wrote the prescriptions.**

**Ms. Taxin responded that an investigation would need to be opened. An investigator would go out and request the prescriptions and review the signatures. She stated that Mr. Bybee's Delegation of Services Agreement says he will write prescriptions and the supervising physician will review them. Ms. Taxin stated that the Board accepted the CE program Mr. Bybee completed. She stated that he was to also complete a record keeping course and submit documentation of**

**completion.**

**Dr. Reimer stated that he is also required to submit the triplicate copies of any CS prescriptions he has written for the Board to review.**

**Ms. Taxin reminded the Board that Mr. Bybee has no CS license so he cannot write any prescriptions at this time.**

**Dr. Clark stated that Mr. Bybee informed the Board at the last meeting that he would be working in Morgan, Utah alone.**

**Ms. Taxin stated that he did mention it at the last meeting and has submitted a Delegation of Services Agreement regarding his working in Morgan.**

Ms. Trujillo reported that **David N. Dodd** is in compliance with his Stipulation and Order. She stated that he has provided the paperwork as requested. She reminded the Board that Mr. Dodd's time is not counting as he is not yet working as a Physician Assistant (PA) but is working as a Radiology Technologist. Ms. Trujillo stated that Mr. Dodd sends in the forms that he is not working as a PA but he is not signing the forms as he should. She stated that she has a new form for him as he has gone from monthly reports to quarterly. She reminded the Board that Mr. Dodd was requested to contact the DEA regarding obtaining his license again. She stated that he submitted a PA practice plan for the Board to review, a description of what supervision entails and a DEA letter. Ms. Trujillo informed the Board that Mr. Dodd received a promotion in Radiology.

**Ms. Taxin stated that she has spoken to Mr. Dodd and let him know that in order for the Board to consider termination of probation he needs to work as a PA for 6 months to a year for the Board to track his practice. She stated that she also had a discussion regarding his choices in the people he has worked for and with and believes he now is aware of healthier environments to find employment.**

**Mr. Day asked if there is a statute of limitations regarding the length of time he may be kept on probation if he is not working.**

**Ms. Taxin responded that there is not a statute of limitations as he has not yet started his 5 year PA probation because he has not worked in the field as the Stipulation requires.**

Ms. Trujillo reported that **Elmer G. Sisneros** is currently non-compliant with his Stipulation and Order. She stated that his reports are due on a quarterly basis now and she has a new form for him. She stated that he should be reminded that there is no therapy report regarding frequency and progress of his therapy. She stated that the supervisor report has been received but not the therapy report.

**Ms. Taxin stated that Mr. Sisneros agreed to get the reports turned in. She stated that she received a phone call from Heber City regarding Mr. Sisneros and his wife opening their own medical clinic. Ms. Taxin stated that the City asked if he is allowed to own the business as he is suppose to be under supervision. She stated that the business is called 5 Minute Clinic and they do not accept any insurance payments. She stated that Mr. Sisneros has not yet informed the Division of his business. Ms. Taxin stated that his supervisor is suppose to be Dr. Rashat Vasheron, who supposedly does not own any of the clinics where he does supervision. She questioned if the physician goes to any of the clinics to supervise and the frequency. Ms. Taxin stated that the Board needs to ask Mr. Sisneros if he is the owner and if so he needs to set the business up as a corporation with a Board so that Mr. Sisneros cannot terminate the employment of his supervisor.**

Ms. Trujillo reported **Jeffrey Pollock** will be meeting for his first interview. She asked if the psychological evaluation will also count for the substance abuse issue.

**Ms. Taxin stated that the psychological evaluation includes a substance abuse evaluation and says Mr. Pollock does not have a propensity to use drugs. She stated that if the Board determines he is not a risk then the Stipulation and Order should be amended. Ms. Taxin stated that the Stipulation and Order recommends therapy with a Psychiatrist for a few different issues.**

**Dr. Schmitz asked if Mr. Pollock's supervising physician is also his prescribing physician.**

**Ms. Taxin responded that Dr. Schmitz is correct. She stated that she talked with the supervisor regarding him also being the prescribing physician. She stated that she recommended he be sure he has a medical chart on Mr. Pollock and is not just prescribing because it is convenient. She stated that she also discussed the concerns she had about the boundaries on prescribing for an employee/supervisee. Ms. Taxin stated that she believes the supervisor could write more detail regarding Mr. Pollock's performance. She reminded the Board to be sure Mr. Pollock understands the requirements of the Stipulation and Order.**

**9:00 am**

Alan N. Bybee, Probationary Interview

Mr. Bybee met for his probationary interview.

Dr. Reimer conducted the interview.

Mr. Bybee stated that Dr. Stephen Bruce is still his supervising physician and Dr. McClellan has been hired to work with him in Morgan, Utah. He stated that he continues to work in Ogden and has been working in Morgan since November 15, 2008.

**Dr. Reimer asked if Mr. Bybee is working in Morgan without any supervisor being there.**

Mr. Bybee responded that Dr. Reimer is correct. He stated that he sees the patient and then takes the chart to Dr. Bruce to review. He stated that if prescriptions are needed Dr. Bruce signs them and then the charts and prescriptions are taken back to Morgan.

**Dr. Reimer stated that this quarterly CS database list documents more CS prescriptions than Mr. Bybee has prescribed. He asked Mr. Bybee for an explanation.**

Mr. Bybee reviewed the list and responded that Dr. Bruce wrote one prescription that had Mr. Bybee's name on it. He gave a copy of that prescription to Dr. Reimer. He stated that he did not write any on the list as he has not written any prescriptions.

**Dr. Allen commented that the prescriptions may be repeats by the pharmacy.**

**Mr. Day noted that there were at least 3 prescriptions that require a signature. He asked who signed the prescription.**

Mr. Bybee again responded that he has not written any prescriptions. He stated that some of the names on the list he has not seen as patients and he does not know who signed the prescriptions.

**Ms. Taxin commented that Mr. Bybee completed the required course and has done what the Board asked of him to have the CS suspension removed. She stated that normally there is not a problem with the database and if there was no problem the CS suspension could be removed. She stated that the Board could recommend the CS suspension be lifted or not and/or she could open a case to determine who signed all the prescriptions. Ms. Taxin stated that after an investigation if Mr. Bybee was the one who signed the prescriptions then the Board could recommend an Order to Show Cause.**

**Dr. Allen stated that he is in favor of lifting the suspension.**

**Ms. Taxin stated that in the Delegation of Services Agreement it documents that Mr. Bybee will be prescribing.**

Mr. Bybee responded that the Delegation of Services

Agreement says he will prescribe only with the CS license. He stated that his DEA license expired in July 2008 and he will have to reapply for that after the suspension is lifted from his CS license.

**Ms. Trujillo asked if supervisor reports will be required from South Ogden and from Morgan.**

**Ms. Taxin responded that a report will be required from each clinic.**

Mr. Bybee asked if the supervision reports will be due quarterly.

**Ms. Taxin responded that they should continue to be due monthly based on the issues with the prescriptions. She stated that Mr. Bybee will have to notify the Division if the DEA will not issue him a license as he cannot have the State CS license without the DEA license.**

**Dr. Reimer made a motion to remove the suspension on Mr. Bybee's CS license, to approve the Delegation of Services form for Morgan, Utah, continue submitting monthly employer/supervisor reports from Ogden and Morgan for now and to open an investigation regarding who has signed for all the prescriptions that have been written and are appearing on the DOPL database under Mr. Bybee's name.**

**Mr. Day seconded the motion.**

**Dr. Reimer, Dr. Allen, Mr. Day and Mr. Coursey voted in favor of the motion. Dr. Clark and Dr. Schmitz voted against the motion. The motion passed with a majority vote.**

**Ms. Taxin explained the process and stated that it will take a few days before the paperwork will be completed. She stated that Mr. Bybee will receive a probationary license for the PA and the CS. Ms. Taxin reminded Mr. Bybee that after he obtains the Utah CS license and the DEA license he must submit a triplicate copy of all prescriptions he writes.**

**Dr. Schmitz commented that he believes it is inappropriate to lift the suspension on the CS license until the issue of the prescriptions has been cleared up in investigations.**

**Dr. Clark asked how long it will take for an investigation to be completed.**

**Ms. Taxin responded that it will take at least a month.**

**Mr. Wayne Holman stated it will take the time necessary to find the information and did not commit to a timeframe.**

**Dr. Allen commented that he believes the investigation will exonerate Mr. Bybee.**

**An appointment was made for Mr. Bybee to meet again on March 12, 2009.**

**9:15 am**

David N. Dodd, Probationary Interview

Mr. Dodd met for his probationary interview.

Clark conducted the interview.

Mr. Dodd reminded the Board that he has been working as a Radiology Technologist and has not been doing any Physician Assistant duties at the hospital. He stated that the Malaya Free Clinic has allowed him to work there as a PA since November 2008 and he has worked as a PA and in Radiology for 10 to 12 hours a week. He stated that there are four Nurses and some X-Ray Technicians that also work the hours he is there. Mr. Dodd submitted a report from David Nelson, his supervisor. He stated that they do not see any pediatric patients at the clinic, there are no narcotics issued from the clinic and they are working with him on his schedule as he wants to retain his full-time employment at the hospital. Mr. Dodd stated the he has never heard back from Dr. Theodore. He stated that the Free Clinic has allowed him to work without any pressure.

**Ms. Taxin stated that a letter from David Nelson**



**also needs to be submitted to document that he has read Mr. Dodd's Stipulation and Order, understands the requirements and is willing to assist Mr. Dodd in being successful in his probation. She stated that David Nelson should also submit a copy of his resume. She stated that David Nelson will also need to submit monthly reports. Ms. Taxin stated that the reports should address that Mr. Dodd is working as a PA and his performance as a PA and employment.**

**Mr. Day stated that a Delegation of Service Agreement will also be needed from the Free Clinic.**

Mr. Dodd stated that there is another Physician who comes in a couple of hours a day and he will also need to sign the Delegation of Services Agreement.

**Dr. Clark reminded Mr. Dodd that if he completed the PA supervision form then he must also sign and date the form. He then stated that Mr. Dodd was going to check with the DEA regarding requirements for licensure. He asked Mr. Dodd to update the Board on that issue.**

Mr. Dodd responded that the Free Clinic only prescribes certain things and he has to be there longer and learn more before he will be allowed to write any prescriptions. He stated that until he gets his Utah State CS license the DEA does not want to give him any information.

**Mr. Day made a motion to amend Mr. Dodd's Stipulation and Order to allow him to work 10 to 12 hours a week as a PA and the hours to count toward his probation time based on Mr. Dodd also holding a full-time employment in another field.**

**Dr. Reimer seconded the motion.**

**The Board vote was unanimous.**

Mr. Dodd thanked the Board for recommending the change as he believes it is too daunting for him to think about working as a PA full-time right now.

**The Board determined Mr. Dodd is in compliance with his Stipulation and Order.**

**An appointment was made for Mr. Dodd to meet again March 12, 2009.**

**9:30 am**

Elmer G. Sisneros, Probationary Interview

Mr. Sisneros met for his probationary interview.

Mr. Day conducted interview.

**Mr. Day informed Mr. Sisneros that his therapy report and evaluation have not been received. He reminded Mr. Sisneros that he is out of compliance when required information has not been submitted. He stated that Mr. Sisneros should contact his therapist to be sure the information is submitted.**

Mr. Sisneros stated that he and his therapist believe termination of therapy is appropriate.

**Ms. Taxin responded that a letter was received in September 2008 but a report has never been submitted. She stated that if Mr. Sisneros therapist is terminating therapy then he must send documentation of how many times they met, the issues worked on and the recommendation of why the therapy is being terminated.**

**Dr. Allen commented that the letter does say the therapist and Mr. Sisneros met for 8 visits through June 2008.**

**Mr. Day asked if Mr. Sisneros is currently employed at 2 locations.**

Mr. Sisneros responded that he works in Layton and Heber. He stated that he fills in when needed and is starting to work up at the Heber clinic which is an extension of Dr. Rashad's business. He stated that they do urgent care at the clinic.

**Mr. Day asked if Mr. Sisneros has modified the Delegation of Services Agreement and, if it has been modified, a copy of the updated agreement**

**must be submitted.**

Mr. Sisneros responded that the agreement has been modified and he will submit a copy for his file. He stated that Blue Cross has now has him restricted from insurance. He stated that he does not use any payments by insurance.

**Mr. Day asked if Mr. Sisneros has exhausted all avenues with Blue Cross at this time.**

Mr. Sisneros responded that Mr. Day is correct.

**Dr. Clark asked if Mr. Sisneros is at the Heber clinic alone.**

Mr. Sisneros responded that Dr. Rashad is the supervising Physician at the clinic. He stated that he works up there at night and Dr. Rashad makes periodic checks on weekends.

**Ms. Taxin asked if Dr. Rashad or Mr. Sisneros owns the Heber clinic.**

Mr. Sisneros responded that Dr. Rashad is the owner of the clinic.

**Mr. Day asked if Mr. Sisneros wife works at the Heber clinic.**

Mr. Sisneros responded that his wife does work at the clinic as an employee. He stated that they applied for a business license in Heber and were informed that the City has no regulation.

**Ms. Taxin stated that they are required to have a business license and they have to meet the requirements and follow the procedures to get the business license. She stated that Heber City is aware of licensure requirements and cannot issue the license if requirements or qualifications are not met.**

**Dr. Schmitz asked if Mr. Sisneros has any interest in the Heber clinic.**

Mr. Sisneros responded that he is a 50% investor in the clinic and the registered agent. He stated that his wife completed the papers for an LLC partnership. Mr. Sisneros stated that he is one of three Board members (his wife, Dr. Rashad and himself). Mr. Sisneros explained that they contacted a health care attorney to assist them in setting up the partnership.

**Dr. Clark asked if Dr. Sisneros has the authority to terminate Dr. Rashad's employment as the supervising physician.**

Mr. Sisneros responded that he could not as he could not work without the supervisor.

**Ms. Taxin commented that she does not believe Mr. Sisneros can have that type of partnership as he needs to have a corporation with a separate Board that manages the business so there is no conflict of interest. She stated that a PA can own a facility but cannot have control over the supervisor.**

**Mr. Holman recommended Mr. Sisneros submit a copy of the business agreement to the Division.**

Mr. Sisneros responded that a copy is on file with the State of Utah.

**Mr. Holman stated that a copy may be on file with the State of Utah for the business license but a copy also needs to be in Mr. Sisneros disciplinary file.**

**Ms. Taxin asked when the Heber clinic opened.**

Mr. Sisneros responded that it opened last Saturday, December 13, 2008.

**Dr. Clark asked if he saw his first patient at the Heber clinic on Saturday, December 13, 2008.**

Mr. Sisneros responded that they saw their first 2 patients on Saturday, December 6, 2008.

**Ms. Trujillo informed Mr. Sisneros that his reports are now due quarterly and she gave him a new form with the due dates listed.**

**Ms. Taxin again reminded Mr. Sisneros that a therapist report is still needed.**

**Dr. Clark also reminded Mr. Sisneros that he needs to submit a new Delegation of Services Agreement and a copy of his LLC. He stated that Mr. Sisneros should get all the information submitted immediately.**

**The Board determined Mr. Sisneros is currently out of compliance with his Stipulation and Order.**

**An appointment was made for Mr. Sisneros to meet again on March 12, 2009.**

Mr. Sisneros left the meeting.

**Ms. Taxin stated to the Board that Heber City informed her that the clinic was open prior to their contacting her. She stated that Heber City's concern is that Mr. and Mrs. Sisneros are the sole owners listed on the documents submitted. She recommended an investigator check out the paperwork.**

**The Board concurred.**

**9:45 am**

Jeffrey Pollock, Initial Probationary Interview

Mr. Pollock did not show for his initial probationary interview.

Ms. Taxin informed the Board that Mr. Pollock submitted some information and met with her and Ms. Trujillo as he was to meet within 30 days and the Board was not meeting within that time frame. She asked if the Board would recommend Mr. Pollock start the drug testing. Ms. Taxin stated that Mr. Pollock has requested he be allowed up to 1 year to complete the CE requirement.

**The Board concurred that Mr. Pollock should start the drug testing. Upon reviewing Mr. Pollock's Stipulation and Order, the Board also requested Mr. Pollock be advised that he must have someone other than his employer as his prescribing**

**physician.**

Ms. Taxin stated that the Division will inform Mr. Pollock to locate a new prescribing physician and discontinue having his employer prescribe for him.

**Ms. Trujillo stated that Mr. Pollock must also submit his practice plan for review.**

**Following discussion, the Board determined Mr. Pollock is out of compliance for failure to appear for his scheduled appointment.**

**Mr. Day made a motion to start Mr. Pollock on drug testing as soon as possible and to allow Mr. Pollock to complete the required CE within one year of when he signed the Stipulation and Order.**

**Dr. Reimer seconded the motion.**

**The Board vote was unanimous.**

**The Board requested an appointment be made for Mr. Pollock to meet March 12, 2009.**

## **DISCUSSION ITEMS:**

2009 Board Meeting Schedule

**The Board noted the following schedule for 2009; March 12, June 4, August 27, and December 3, 2009**

Opinion of PA's supervising Laser Procedures

Ms. Taxin asked the Board for their opinion regarding PA's supervising laser procedures and reviewed the opinions of the Physicians Board in regard to this issue. She explained that, prior to Diana Baker leaving the Division, Ms. Baker and Laura Poe were working on drafting rules regarding laser procedures and supervision. Ms. Taxin stated that she has now been working with Ms. Poe on the rules draft. She stated that the plan is to include the rules in R156-1, the General Rules. Ms. Taxin stated the Division's position is that currently PA's cannot supervise laser treatment and cannot own a facility for laser treatments. She stated that the Physicians Board support PA's supervising and being a medical director.

**Dr. Schmitz asked if the PA would still be required to be under supervision of a Physician.**

Ms. Taxin responded that the PA would still be required to have a Physician supervisor. She stated that she and Ms. Poe are working on the education requirements. Ms. Taxin stated that currently the medical assistant supervision is to be direct, immediately available and on sight supervision. She stated that the Esthetician would still need direct and immediately available supervision.

**Dr. Schmitz asked if the supervising Physician is in the same clinic but not on the same floor would that still be direct and immediately available.**

Ms. Taxin responded that she does not believe being on a different floor of the clinic would make the supervisor immediately available. She stated that the supervising Physician would have to review the files weekly and make the recommendations. Ms. Taxin stated that currently APRN's are not required to be supervised for laser treatments and are allowed to supervise others. She asked if PA's are qualified and would be appropriate for PA's to be allowed to do laser treatments and to supervise others.

**Dr. Reimer responded that PA's are trained and qualified to do laser treatments.**

**Mr. Coursey commented that the supervising Physicians delegate to the PA's.**

**Dr. Schmitz stated that he has concerns regarding laser treatment clinic being set up by providers. He asked what training would be required.**

Ms. Taxin stated that specific training and education and CE will be required for Physician's, PA's, APRN's and all professionals performing the service. She stated that Physician's are not licensed by specialty but should have the education to do laser treatments safely.

**Mr. Day asked if the Board's could modify the Esthetician's rules.**

Ms. Taxin responded that one profession cannot write rules for another profession but they can put in specific education requirements and if Esthetician's want to do laser treatments then they will have to meet the requirements.

Ms. Taxin asked if the Board would agree to allow PA's to supervise.

**The Board unanimously voiced agreement that PA's should be allowed to supervise.**

Ms. Taxin explained that the Boards would review the proposed rule, next the associations would review, then the rules would be filed and available for the public to review before going to a public rules hearing.

Executive Order

Ms. Taxin informed the Board that the Governor has issued an Executive Order that deals with acting ethically, accepting gifts, nepotism in hiring and contracting and prohibiting lobbying executive branch department or agency employees. She recommended the Board review and be familiar with the document.

**NEXT MEETING SCHEDULED FOR:**

March 12, 2009

**ADJOURN:**

The time is 10:32 am and the Board meeting is adjourned.

*Note: These minutes are not intended to be a verbatim transcript but are intended to record the significant features of the business conducted in this meeting. Discussed items are not necessarily shown in the chronological order they occurred.*

March 12, 2009  
Date Approved

(ss) Jeffery Paul Clark, MD  
Chairperson, Utah Physician Assistant Licensing Board

December 29, 2009  
Date Approved

(ss) Noel Taxin  
Bureau Manager, Division of Occupational & Professional Licensing